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**U.S. District Court
Middle District of Florida (Jacksonville)
CIVIL DOCKET FOR CASE #: 3:08-cv-01239-MMH-JRK**

Post, Buckley, Schuh & Jernigan, Inc. v. United States
Department of the Army et al
Assigned to: Judge Marcia Morales Howard
Referred to: Magistrate Judge James R. Klindt
Cause: 05:0552 Freedom of Information Act

Date Filed: 12/24/2008
Date Terminated: 02/23/2010
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Post, Buckley, Schuh & Jernigan, Inc.
a Florida corporation

represented by **Dominic C. MacKenzie**
Holland & Knight, LLP
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Jacksonville, FL 32202
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ATTORNEY TO BE NOTICED

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V.

Defendant

United States Department of the Army

represented by **Collette Bridget Cunningham**
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ATTORNEY TO BE NOTICED

Defendant

United States Army Corp of Engineers
a component of the United States
Department of the Army

represented by **Collette Bridget Cunningham**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sean Flynn
(See above for address)
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
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| 12/24/2008 | <u>1</u> | COMPLAINT against United States Department of the Army, United States Army Corp of Engineers (Filing fee \$ 350.00 receipt number J031145) filed by Post, Buckley, Schuh & Jernigan, Inc.. (Attachments: # <u>1</u> Exhibit)(EAM) (Entered: 12/24/2008) |
| 12/24/2008 | | Summons issued as to U.S. Attorney (EAM) (Entered: 12/24/2008) |
| 12/24/2008 | <u>2</u> | AMENDED STANDING ORDER: Filing of documents that exceed twenty-five pages. Signed by All Jacksonville Divisional Judges on 5/25/2005.(EAM) (Entered: 12/24/2008) |
| 01/02/2009 | <u>3</u> | NOTICE of designation under Local Rule 3.05 - track 1. Signed by Deputy Clerk on 1/2/2009. (JW) (Entered: 01/02/2009) |
| 02/06/2009 | <u>4</u> | ANSWER and affirmative defenses to <u>1</u> Complaint by United States Department of the Army, United States Army Corp of Engineers.(Cunningham, Collette) (Entered: 02/06/2009) |
| 02/10/2009 | <u>5</u> | NOTICE of re-designation under Local Rule 3.05 - track 2. Signed by Deputy Clerk on 2/10/2009. (Attachments: # <u>1</u> Consent Letter)(JW) (Entered: 02/10/2009) |
| 02/11/2009 | <u>6</u> | CERTIFICATE OF SERVICE by Post, Buckley, Schuh & Jernigan, Inc. re <u>5</u> Related case order and notice of designation of track 2 (Conner, Timothy) (Entered: 02/11/2009) |
| 02/12/2009 | <u>7</u> | MOTION for summary judgment by Post, Buckley, Schuh & Jernigan, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Conner, Timothy) Modified text on 2/13/2009 (EAM). (Entered: 02/12/2009) |
| 02/12/2009 | <u>8</u> | NOTICE of Filing Declaration of Benjamin P. Butterfield, Esq. by Post, Buckley, Schuh & Jernigan, Inc. (Attachments: # <u>1</u> Exhibit Composite Exhibit A)(Conner, Timothy) Modified text on 2/13/2009 (EAM). (Entered: 02/12/2009) |
| 02/12/2009 | <u>9</u> | Plaintiff's MOTION for Expedited Consideration of Its Dispositive Motion for Summary Judgment and Request for Oral Argument by Post, Buckley, Schuh & Jernigan, Inc.. (Conner, Timothy) Modified text on 2/13/2009 (EAM). (Entered: 02/12/2009) |
| 02/13/2009 | <u>10</u> | SUMMARY JUDGMENT NOTICE Signed by Deputy Clerk on 2/13/2009. (EAM) (Entered: 02/13/2009) |
| 02/26/2009 | <u>11</u> | MOTION for miscellaneous relief, specifically to Redesignate Action as a Track One Case by United States Department of the Army, United States Army Corp of Engineers. (Cunningham, Collette) (Entered: 02/26/2009) |

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| 02/26/2009 | <u>12</u> | Consent MOTION for Extension of Time to File Response/Reply as to <u>9</u> MOTION to expedite Plaintiff's Motion for Expedited Consideration of Its Dispositive Motion for Summary Judgment and Request for Oral Argument, <u>7</u> MOTION for summary judgment <i>Plaintiff's Dispositive Motion for Summary Judgment</i> by United States Department of the Army, United States Army Corp of Engineers. (Cunningham, Collette) (Entered: 02/26/2009) |
| 03/02/2009 | <u>13</u> | ORDER granting <u>11</u> Motion to Redesignate Action as a Track One Case. Signed by Judge Marcia Morales Howard on 2/27/2009. (JW) (Entered: 03/02/2009) |
| 03/02/2009 | <u>14</u> | NOTICE of designation under Local Rule 3.05 - track 1. Signed by Deputy Clerk on 3/2/2009. (Attachments: # <u>1</u> Consent Letter)(JW) (Entered: 03/02/2009) |
| 03/09/2009 | <u>15</u> | ORDER: Defendants' Consent Motion to Extend Time to Respond to Plaintiff's Motion for Summary Judgment (Doc. 7) and Plaintiff's Motion for Expedited Consideration (Doc. 9) <u>12</u> is GRANTED and Defendants shall have up to and including March 13, 2009, to do so. Signed by Magistrate Judge Howard T. Snyder on 3/9/2009. (JMP) (Entered: 03/09/2009) |
| 03/12/2009 | <u>16</u> | Second MOTION for Extension of Time to File Response/Reply as to <u>9</u> MOTION to expedite Plaintiff's Motion for Expedited Consideration of Its Dispositive Motion for Summary Judgment and Request for Oral Argument, <u>7</u> MOTION for summary judgment <i>Plaintiff's Dispositive Motion for Summary Judgment</i> by United States Department of the Army, United States Army Corp of Engineers. (Cunningham, Collette) (Entered: 03/12/2009) |
| 03/13/2009 | <u>17</u> | SUPPLEMENTAL 3.01(g) Certification re <u>16</u> Second MOTION for Extension of Time to File Response/Reply as to <u>9</u> MOTION to expedite Plaintiff's Motion for Expedited Consideration of Its Dispositive Motion for Summary Judgment and Request for Oral Argument, <u>7</u> MOTION for summary judgment by Collette Bridget Cunningham on behalf of United States Department of the Army, United States Army Corp of Engineers (Cunningham, Collette) Modified on 3/16/2009 (to edit text) (TD). Modified on 3/19/2009 (to edit text)(TD). (Entered: 03/13/2009) |
| 03/13/2009 | <u>18</u> | CERTIFICATION of Service of Notice of Designation Under Local Rule 3.05 by Post, Buckley, Schuh & Jernigan, Inc.. (MacKenzie, Dominic) Modified on 3/16/2009 (to edit text) (TD). (Entered: 03/13/2009) |
| 03/16/2009 | <u>19</u> | OBJECTION re <u>16</u> Second MOTION for Extension of Time to File Response/Reply as to <u>9</u> MOTION to expedite Plaintiff's Motion for Expedited Consideration of Its Dispositive Motion for Summary Judgment and Request for Oral Argument, <u>7</u> MOTION for summary judgment <i>Second MOTION for Extension of Time to File Response/Reply as to <u>9</u> MOTION to expedite Plaintiff's Motion for Expedited Consideration of Its Dispositive Motion for Summary Judgment and Request for Oral Argument, <u>7</u> MOTION for summary judgment</i> . (Conner, Timothy) (Entered: 03/16/2009) |

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| 03/19/2009 | <u>20</u> | ORDER granting Defendants' Second Motion to Extend Time to Respond to Plaintiff's Motion for Summary Judgment (Doc. 7) and Plaintiff's Motion for Expedited Consideration (Doc. 9) <u>16</u> . Signed by Magistrate Judge Howard T. Snyder on 3/19/2009. (JMP) (Entered: 03/19/2009) |
| 03/20/2009 | <u>21</u> | NOTICE of supplemental authority re <u>7</u> MOTION for summary judgment <i>Plaintiff's Dispositive Motion for Summary Judgment</i> by Post, Buckley, Schuh & Jernigan, Inc. (Attachments: # <u>1</u> Exhibit A Directive)(MacKenzie, Dominic) (Entered: 03/20/2009) |
| 03/30/2009 | <u>22</u> | Cross MOTION for summary judgment <i>and Incorporated Opposition to Plaintiff's Motion for Summary Judgment</i> by United States Department of the Army, United States Army Corp of Engineers. (Attachments: # <u>1</u> Exhibit A, Declaration of D. Marlin, # <u>2</u> Exhibit B, Declaration of G. Gonzalez, # <u>3</u> Exhibit C, Declaration of J. Misciagna, # <u>4</u> Exhibit D, Declaration of D. Sturgeon)(Cunningham, Collette) (Entered: 03/30/2009) |
| 03/30/2009 | <u>23</u> | MEMORANDUM in opposition re <u>9</u> Motion to expedite filed by United States Department of the Army, United States Army Corp of Engineers. (Cunningham, Collette) (Entered: 03/30/2009) |
| 03/31/2009 | <u>24</u> | SUMMARY JUDGMENT NOTICE. Signed by Deputy Clerk on 3/31/2009. (EAM) (Entered: 03/31/2009) |
| 03/31/2009 | <u>25</u> | NOTICE of Appearance by Sean Flynn on behalf of United States Department of the Army, United States Army Corp of Engineers (Flynn, Sean) (Entered: 03/31/2009) |
| 04/13/2009 | <u>26</u> | RESPONSE in opposition to motion re <u>22</u> Cross MOTION for summary judgment <i>and Incorporated Opposition to Plaintiff's Motion for Summary Judgment</i> filed by Post, Buckley, Schuh & Jernigan, Inc.. (MacKenzie, Dominic) Modified on 4/14/2009 as to text only (MGG). (Entered: 04/13/2009) |
| 04/14/2009 | <u>27</u> | Amended RESPONSE in opposition re <u>22</u> Cross MOTION for summary judgment <i>and Incorporated Opposition to Plaintiff's Motion for Summary Judgment (Corrected Plaintiff's Response in Opposition)</i> filed by Post, Buckley, Schuh & Jernigan, Inc.. (MacKenzie, Dominic) Modified text on 4/15/2009 (EAM). (Entered: 04/14/2009) |
| 05/11/2009 | <u>28</u> | MOTION for leave to file Reply Brief by United States Department of the Army, United States Army Corp of Engineers. (Cunningham, Collette) (Entered: 05/11/2009) |
| 05/13/2009 | <u>29</u> | RESPONSE in opposition re <u>28</u> MOTION for leave to file Reply Brief filed by Post, Buckley, Schuh & Jernigan, Inc.. (MacKenzie, Dominic) Counsel notified to refile document with complete signatures. Modified on 5/14/2009 (EAM). (Entered: 05/13/2009) |

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| 05/14/2009 | <u>30</u> | Amended RESPONSE in opposition re <u>28</u> MOTION for leave to file Reply Brief filed by Post, Buckley, Schuh & Jernigan, Inc.. (MacKenzie, Dominic) Modified text on 5/15/2009 (EAM). (Entered: 05/14/2009) |
| 05/15/2009 | <u>31</u> | ORDER denying <u>28</u> Defendants Motion for Leave to File Reply Brief and Memorandum in Support Thereof. See Order for details. Signed by Judge Marcia Morales Howard on 5/15/2009.(SJH) (Entered: 05/15/2009) |
| 06/12/2009 | <u>32</u> | MOTION to stay Proceedings by United States Department of the Army, United States Army Corp of Engineers. (Attachments: # <u>1</u> Exhibit A)(Cunningham, Collette) (Entered: 06/12/2009) |
| 06/26/2009 | <u>33</u> | RESPONSE in opposition re <u>32</u> MOTION to stay Proceedings filed by Post, Buckley, Schuh & Jernigan, Inc.. (MacKenzie, Dominic) (Entered: 06/26/2009) |
| 09/04/2009 | <u>34</u> | NOTICE of Actions Rendering Motion for Stay Moot by Post, Buckley, Schuh & Jernigan, Inc. (MacKenzie, Dominic) Modified on 9/8/2009 as to text only (MGG). (Entered: 09/04/2009) |
| 09/08/2009 | <u>35</u> | ORDER denying as moot <u>32</u> Defendants' Motion for Stay. Signed by Judge Marcia Morales Howard on 9/8/2009. (JW) (Entered: 09/08/2009) |
| 09/18/2009 | <u>36</u> | NOTICE of Filing Revised Vaughn Indices to Reflect Production in CFC Litigation by United States Department of the Army, United States Army Corp of Engineers (Attachments: # <u>1</u> Exhibit A)(Cunningham, Collette) Modified on 9/21/2009 as to text only (MGG). (Entered: 09/18/2009) |
| 09/29/2009 | <u>37</u> | MOTION to strike <i>Revised Vaughn Indices or, Alternatively, Motion for Leave to File a Response to Revised Vaughn Indices</i> by Post, Buckley, Schuh & Jernigan, Inc.. (MacKenzie, Dominic) (Entered: 09/29/2009) |
| 09/30/2009 | <u>38</u> | ORDER taking under advisement and deferring ruling on <u>7</u> Plaintiff's Dispositive Motion for Summary Judgment; granting, in part and denying, in part <u>9</u> Plaintiff's Motion for Expedited Consideration of its Dispositive Motion for Summary Judgment and Request for Oral Argument; granting, in part, denying, in part, and deferring ruling, in part, on <u>22</u> Defendants' Dispositive Cross-Motion for Summary Judgment. Supplemental briefs due October 20, 2009. Hearing set for October 29, 2009, at 2:00 p.m. See order for additional details. Signed by Judge Marcia Morales Howard on 9/30/2009. (JW) Modified text on 10/1/2009 (EAM). (Entered: 09/30/2009) |
| 10/02/2009 | <u>39</u> | ORDER granting, in part, and denying, in part, <u>37</u> Plaintiff's Motion to Strike <i>Revised Vaughn Indices or, Alternatively, Motion for Leave to File a Response</i> . Signed by Judge Marcia Morales Howard on 10/2/2009. (JW) (Entered: 10/02/2009) |

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| 10/20/2009 | 40 | Plaintiff's MEMORANDUM in support Addressing the Impact of Ongoing Production of Documents in the CFC Litigation re 7 Motion for summary judgment filed by Post, Buckley, Schuh & Jernigan, Inc.. (Attachments: # 1 Exhibit "A") (MacKenzie, Dominic) Modified text on 10/21/2009 (EAM). (Entered: 10/20/2009) |
| 10/20/2009 | 41 | Defendant's MEMORANDUM in support addressing the Impact of the Ongoing Production of Documents in the CFC Litigation and the Revised Vaughn Indicesre 22 Motion for summary judgment filed by United States Department of the Army, United States Army Corp of Engineers. (Cunningham, Collette) Modified text on 10/21/2009 (EAM). (Entered: 10/20/2009) |
| 10/28/2009 | 42 | MOTION for reconsideration 30 Order by Post, Buckley, Schuh & Jernigan, Inc.. (Attachments: # 1 Exhibit A)(MacKenzie, Dominic) Modified text on 10/29/2009 (EAM). (Entered: 10/28/2009) |
| 10/29/2009 | 43 | Minute Entry for Proceedings held before Judge Marcia Morales Howard: Motion Hearing held on October 29, 2009; denying 42 Plaintiff's Motion for Reconsideration; withdrawing 7 Plaintiff's Dispositive Motion for Summary Judgment. Defendants' Dispositive Cross-Motion for Summary Judgment 22 remains deferred. Status conference set for December 7, 2009, at 3:30 p.m. Court Reporter: L. Marie Splane (JW) (Entered: 10/30/2009) |
| 11/04/2009 | 44 | TRANSCRIPT of Motion Hearing held on October 29, 2009 before Judge Marcia Morales Howard. Court Reporter/Transcriber L. Marie Splane,Telephone number 904.549.1310. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 11/25/2009, Redacted Transcript Deadline set for 12/7/2009, Release of Transcript Restriction set for 2/2/2010. (MS) (Entered: 11/04/2009) |
| 11/04/2009 | 45 | NOTICE to counsel of filing of OFFICIAL TRANSCRIPT of Motion Hearing held on October 29, 2009. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days. Any party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter or view the document at the clerk's office public terminal. Court Reporter: L. Marie Splane (MS) (Entered: 11/04/2009) |
| 12/03/2009 | 46 | Unopposed MOTION to Appear Telephonically <i>at Status Conference</i> by United States Department of the Army, United States Army Corp of Engineers. (Flynn, Sean) Motions referred to Magistrate Judge Howard T. Snyder. (Entered: 12/03/2009) |

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| 12/04/2009 | 47 | ORDER denying 46 Unopposed Motion to Appear at Status Conference by Telephone. The status conference in this matter is continued to December 11, 2009, at 2:00 p.m. Signed by Judge Marcia Morales Howard on 12/4/2009. (JW) (Entered: 12/04/2009) |
| 12/09/2009 | 48 | Unopposed MOTION to continue <i>status conference</i> , Unopposed MOTION to Appear Telephonically <i>in the alternative</i> by United States Department of the Army, United States Army Corp of Engineers. (Flynn, Sean) Motions referred to Magistrate Judge Howard T. Snyder. (Entered: 12/09/2009) |
| 12/10/2009 | 49 | ORDER granting 48 Motion to continue; denying 48 Motion to Appear Telephonically. Each party is directed to file a status report with the Court on or before December 28, 2009, advising the Court on the issues previously set for discussion at the status conference. Signed by Judge Marcia Morales Howard on 12/10/2009. (MEH) (Entered: 12/10/2009) |
| 12/28/2009 | 50 | STATUS REPORT (<i>JOINT</i>) by Post, Buckley, Schuh & Jernigan, Inc.. (Attachments: # 1 Exhibit 1 - List of Specific Docs for Nov. 19, 2009 Inspection, # 2 Exhibit 2 - Docs Responsive to FOIA Requests Not Yet Produced by Corps) (MacKenzie, Dominic) (Entered: 12/28/2009) |
| 01/06/2010 | 51 | ORDERED: The parties shall adhere to the terms of their agreement as set forth in the 50 Joint Status Report. On or before February 22, 2010, the parties shall file a status report advising the Court of the remaining issues in this case, or alternatively, requesting voluntary dismissal of this action. See Order for details. Signed by Judge Marcia Morales Howard on 1/5/2010. (MEH) (Entered: 01/06/2010) |
| 02/02/2010 | 52 | Case reassigned to Magistrate Judge James R. Klindt. New case number: 3:08-cv-1239-J-34JRK. Magistrate Judge Howard T. Snyder no longer assigned to the case. (DTS) (Entered: 02/02/2010) |
| 02/22/2010 | 53 | STIPULATION of Dismissal (<i>Joint</i>) by United States Army Corp of Engineers, United States Department of the Army. (Flynn, Sean) (Entered: 02/22/2010) |
| 02/23/2010 | 54 | ORDER dismissing case with prejudice. The Clerk of the Court is directed to close the file. Signed by Judge Marcia Morales Howard on 2/23/2010. (JW) (Entered: 02/23/2010) |

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